

WATER DISTRICT 1 ANNUAL MEETING  
RESOLUTIONS

1. BE IT RESOLVED that the watermaster apply the best available methods and technology to assure accurate deliveries of natural flow and stored water, consistent with regulatory procedures and the availability of the water supply; that he maintain accurate records of water delivered to each water user; that he shall accurately allocate the estimated expenses of delivering water of the district to each ditch, canal company, irrigation district or other water user as provided by law; and that he shall prepare the annual watermaster's report required by Idaho Code §42-606 and a proposed budget for the succeeding year as required by Idaho Code §42-615.

BE IT FURTHER RESOLVED that:

2. The watermaster will investigate ways to expand and maintain automation where it can effectively improve water management, reduce personnel costs, travel costs, or result in cost or water savings for Snake River water users, or assure better and more current data.
3. The water users of Water District 1 continue the cooperative program with the Idaho Department of Water Resources (IDWR) as outlined in the Memorandum of Understanding dated March 2, 1993, previously approved by the Committee of Nine, and signed by the chairman of the Committee of Nine and the director of the Department of Water Resources, a copy of this agreement is attached hereto as exhibit A and made a part hereof as if set out at length herein.
4. Ronald D. Carlson be re-elected watermaster for the ensuing year, and be authorized to hire a full-time staff of a deputy, two assistants, a secretary, a data specialist, and such other assistants as provided by the adopted budget. The watermaster may hire additional assistants as authorized in Idaho Code § 42-609 in an emergency.
5. Dale Rockwood be elected Water District 1 Treasurer and his annual compensation set by the Committee of Nine, but not to exceed the \$4,000 provided in the 2003 Water District 1 budget.
6. The duties of the watermaster and treasurer shall begin on this date and continue for a period of one full year.
7. The budget for Water District 1 for the 2003 year beginning November 1, 2002 be as follows:

3/3/2003

## 2003 BUDGET

	2003 BUDGET Water Users Portion	2003 BUDGET Co-op Agency Portion	2003 BUDGET Proposed
<b>EXPENSES</b>			
<b><u>HYDROGRAPHERS/RIVER RIDERS</u></b>			
TETON BASIN	FULLMER 11,000		11,000
IDAHO FALLS	S. HALL 3,000		3,000
LOWER VALLEY	MILLS 3,500		3,500
HENRYS FORK	SAUREY 8,100		8,100
TETON RIVER	RUMSEY 8,100		8,100
RIGBY/IDAHO FALLS	K. HALL 4,950		4,950
HEISE	OLSON 4,000		4,000
BLACKFOOT	BALDWIN 7,000		7,000
SWAN VALLEY	HUNTER 5,400		5,400
UPPER FALLS	LENZ 1,500		1,500
WILLOW CRK	SKARR 3,920		3,920
MILNER	YOST 420		420
PART TIME HELP	MADSEN 12,000		12,000
TOTAL	72,890	0	72,890
<b><u>PROGRAM EXPENSES</u></b>			
AUTOMATION	10,000		10,000
HYDROMET O & M	53,000		53,000
ID PWR CONTRACT		111,750	111,750
STREAMGAGING	119,340	101,520	220,860
BLACKFOOT RIVER PROJECT		3,750	3,750
ADJUDICATION		30,000	30,000
LEGISLATIVE INTERNSHIP	5,000		5,000
CLOUD SEEDING	5,000		5,000
GROUNDWATER RECHARGE		15,000	15,000
TOTAL	192,340	262,020	454,360
<b><u>EQUIPMENT EXPENSES</u></b>			
OFFICE EQUIPMENT	5,000		5,000
COMPUTER	5,000		5,000
TELEPHONE	400		400
TOTAL	10,400	0	10,400
<b><u>PERSONNEL EXPENSES</u></b>			
RETIREMENT	5,000		5,000
SOCIAL SECURITY	6,325		6,325
MILEAGE	33,000		33,000
STATE INSURANCE FUND	1,500		1,500
EMPLOYMENT INSURANCE	1,000		1,000
MISC. HYDROGRAPHER EXP	1,500		1,500
MISC. PERSONNEL EXPENSES	150		150
TREASURER	2,500		2,500
TOTAL	50,975	0	50,975

	2003 BUDGET Water Users Portion	2003 BUDGET Co-op Agency Portion	2003 BUDGET Proposed
<b><u>MISCELLANEOUS EXPENSES</u></b>			
WATER EDUCATION	3,850		3,850
OTTO OTTER	1,000		1,000
IWUA	500		500
POSTAGE	4,200		4,200
SUPPLIES	2,500		2,500
BANK CHARGES	400		400
AUDIT	6,600		6,600
MEETINGS	4,500		4,500
COMMITTEE OF NINE	15,000		15,000
TOTAL	<u>38,550</u>	<u>0</u>	<u>38,550</u>
<b><u>WATERMASTER</u></b>			
IDWR CONTRACT	409,500		409,500
ANNUAL BOOK	4,000		4,000
TRAVEL	6,000		6,000
WATER MEASUREMENT DIST		160,000	160,000
TOTAL	<u>419,500</u>	<u>160,000</u>	<u>579,500</u>
<b>TOTAL WATER DISTRICT 1 OPERATIONS BUDGET</b>	<u><u>784,655</u></u>	<u><u>422,020</u></u>	<u><u>1,206,675</u></u>
<b>OTHER COMMITTEE OF NINE APPROVED EXPENDITURES</b>			
<b><u>WD CONSULTANTS &amp; ATTORNEYS</u></b>			
ROSHOLT/SIMPSON			
LING			
RIGBY			
ATTORNEYS	450,000		450,000
ERO	40,000		40,000
COMMITTEE OF NINE-COALITION	10,000		10,000
TOTAL	<u>500,000</u>	<u>0</u>	<u>500,000</u>
<b><u>EXCESS USE</u></b>	100,000		100,000
<b><u>ESA CONTINGENCY FUND</u></b>	50,000		50,000
<b>TOTAL WATER DISTRICT BUDGET</b>	<u><u>1,434,655</u></u>	<u><u>422,020</u></u>	<u><u>1,856,675</u></u>
<b><u>UPPER VALLEY FEES</u></b>	100,000		100,000
<b>TOTAL BUDGET W/ UV FEES</b>	<u><u>1,534,655</u></u>	<u><u>422,020</u></u>	<u><u>1,956,675</u></u>

8. BE IT RESOLVED that the watermaster is hereby authorized to acquire, hold and dispose of such real and personal property, equipment and facilities in the name of the water district as necessary for the proper distribution of water and shall provide that all such real and personal property shall remain in the custody of the watermaster and the watermaster's successor.

9. WHEREAS, it is the watermaster's responsibility to assure the proper delivery of both natural flow and storage supplies to all water users, and

WHEREAS, the normal water district cost of delivering water to many water users is greater than their normal assessments would be based upon their total annual use of water;

NOW, THEREFORE, BE IT RESOLVED that the watermaster of Water District 1 is hereby authorized to assess a \$30.00 minimum charge for every diversion within his jurisdiction.

10. WHEREAS, the water users of Water District 1 meeting in regular annual session find it necessary to confirm the continuation of the following "on-going" resolutions which direct the watermaster and the treasurer of the district in certain aspects of Water District 1 operations;

NOW, THEREFORE, BE IT RESOLVED that the budget of Water District 1 adopted at the annual meeting shall become the basis for the aggregate amount to be collected from all water users in the district for the succeeding year, using the actual deliveries for the past irrigation season or seasons as the basis for the allocation of said expenses to the individual waterusers, canal companies, and irrigation districts, which shall constitute a final determination of the amount due for that year without the need to carry forward any water user debits or credits to the following year, and to collect or cause to be collected said amounts billed;

That the treasurer shall establish and maintain a general account and shall cause all monies received to be deposited and shall make all disbursements as necessary to conduct the business of the water district;

That no ditch, canal company, or other water users shall have the right to demand and receive water, and the watermaster shall not deliver to such person until receipt of the amount due and payable from such user, and

That copies of the minutes of the annual meeting, the approved budget, and related resolutions, shall be filed with the Director of the Department of Water Resources and with the county auditors of Bonneville, Madison, Teton, and Fremont Counties in accordance with Idaho Code §42-612 and 42-617.

11. WHEREAS, it is in the best interest of the water users of Water District 1 to account for all diversions, which might adversely affect any prior natural flow or storage rights;

BE IT RESOLVED that the watermaster shall be on duty to regulate diversions and collect records of water diversions during the entire year.

12. BE IT FURTHER RESOLVED that the Committee of Nine be designated to be the advisory committee under Idaho Code §42-605 and be continued with nine regular members. The member representing the Burley and Minidoka Irrigation Districts shall be alternated between the two districts as they arrange. In addition, advisory members to the committee shall consist of a representative from the Bureau of Reclamation, the Teton Basin, the AFRD#2 Canal, A & B Irrigation District, the Wyoming State Engineer, and the alternate from the Burley or Minidoka Irrigation District who is not currently a member of the Committee of Nine.
13. WHEREAS, the members of the Committee of Nine, as the water district's advisory committee, are elected to represent the general interest of the water users;

NOW, THEREFORE, BE IT RESOLVED that the Committee of Nine is hereby authorized to:

- (a) Advise and consult with the watermaster and director in matters related to water resources management and water distribution.
- (b) Serve as the standing resolutions committee for all meetings of the water district.
- (c) Take those actions necessary to represent and protect the interests of the water users of the water district and to authorize the expenditure of additional funds when necessary.
- (d) Employ such legal, engineering, technical and clerical services that may be deemed necessary by the Committee of Nine to fulfill its responsibilities to the water users of the water district.
- (e) Make and execute such contracts and agreements as may be deemed necessary or convenient.
- (f) Do such other things as the committee shall deem to be beneficial to the water users of the water district.

BE IT FURTHER RESOLVED that the Committee of Nine is hereby ratified as the local committee for the rental of stored water under Idaho Code § 42-1765.

14. WHEREAS, the Committee of Nine has been selected by the water users of Water District 1 to represent their collective interests;

BE IT RESOLVED that the Committee of Nine be authorized to modify the budget and approve the expenditure of funds held by the water district for the following purposes:

- (1) Unanticipated expenses of the water district.
  - (2) Necessary improvements to the water district's facilities.
  - (3) Educational projects designed to increase public awareness in the area of water distribution, water rights and water conservation.
  - (4) Other public projects designed to assist in the adjudication, conservation or more efficient distribution of water.
  - (5) Involvement in legislative, legal and agency deliberations on issues involving water quantity and quality which could affect water users of the water district, including naming Water District 1 as a petitioner in legal actions involving the ESA and the negotiation of federal claims and tribal claims filed in the SRBA, and further, to expend funds as are necessary that may exceed the budgeted amounts for such expenditures and then approved by the Committee of Nine.
  - (6) To reimburse advisory committee members in accordance with the policy attached hereto as exhibit B.
  - (7) Items authorized in resolution no. 13.
15. BE IT HEREBY RESOLVED that in accordance with the provisions of the March 2, 1993, Memorandum of Understanding with IDWR, the watermaster is hereby designated manager of the Rental Pool for the Committee of Nine.
16. WHEREAS, the watermaster from time to time finds that storage has been used in excess of entitlements, and
- WHEREAS, these "excess uses" require an allocation of rental pool storage, and
- WHEREAS, the collection of payment for these excess storage uses can be time-consuming and can result in delays in making lease payments to the rental pool lessors;
- NOW, THEREFORE, BE IT RESOLVED that the watermaster is authorized to maintain \$100,000 of the funds generated through the administrative charge on water rentals for the purpose of assuring lessors can be paid prior to the final diversion data for the year being available to the watermaster.
- BE IT FURTHER RESOLVED that all monies collected for excess use rental charges, plus all appropriate interest and penalties, shall be first used to replace monies spent from this account.
17. WHEREAS, the water district's credentials committee has historically specified that "no person be elected to membership and service on the Committee of Nine and credentials committee unless he be a land owner and a water user...;"

IT IS THEREFORE RESOLVED that water user and land owner shall be defined as follows:

1. One who owns an irrigated farm that is comprised of more than twenty (20) irrigated acres that has valid surface water rights deliverable by the Water District 1 Watermaster; and
2. One who has received over 50 percent of his annual income during one or more of the past ten years from farming activities.
3. Or has previously qualified for service on the Committee of Nine as defined by 1 and 2 above.

18. WHEREAS, it is in the interest of all water users to have the water rights within Water District 1 delivered by priority, and

WHEREAS, the accounting system now used by Water District 1 requires that each diversion have assigned to it a specific list of decreed, licensed, and storage entitlement, and

WHEREAS, those diversions which have no decreed, licensed or permitted water rights will, necessarily be taking storage water any time a diversion takes place;

NOW, THEREFORE, BE IT RESOLVED that no diversion under a decree, license or permit, shall be allowed unless the list of rights for that diversion are found in the watermaster's records or proper arrangements have been made to procure an adequate water supply prior to the start of the irrigation season.

19. BE IT RESOLVED that the annual Water District 1 meeting shall hereafter be held on the first Tuesday of March, of each year unless the director and Committee of Nine should find it necessary to change the meeting date, and

BE IT FURTHER RESOLVED that the water users of Water District 1 waive mailed notice of the annual meeting and direct publication of the meeting notice for two (2) consecutive weeks in an appropriate number of newspapers located throughout the water district.

20. WHEREAS, the water users located above Blackfoot, excluding Aberdeen Springfield Canal Company (upper valley), have chosen to collectively retain legal counsel, and

WHEREAS, it is their desire to have the watermaster assess the upper valley water users for these legal services in proportion to their water use;

NOW, THEREFORE, BE IT RESOLVED this fourth day of March, 2003, that the watermaster hereby be authorized to assess canals located above Blackfoot (excluding

Aberdeen Springfield Canal Company) for legal fees and other appropriate expenses associated with representing the collective interest of the upper valley.

BE IT FURTHER RESOLVED that such charges may not exceed the amount budgeted during the current year.

BE IT FURTHER RESOLVED that the water district treasurer shall maintain said amounts in a separate account and that payment therefrom shall ONLY be made when authorized by the upper valley Committee of Nine representatives.

21. BE IT RESOLVED that 8.1 of Water District 1 Rental Pool Rules and Regulations be approved by the Idaho Water Resource Board as follows:

8.1. The rates for the storage rented from the rental pool leased in 2003 and until changed by the Committee shall be:

- A. \$2.95 per acre-foot of water leased for uses above Milner Dam. This price shall include \$2.00 to the Assignor, the district's administrative charge of \$0.75 per acre-foot and the Board surcharge of \$0.20 per acre-foot.
- B. \$10.50 per acre-foot for water leased for use below Milner Dam. This price shall include \$7.00 per acre-foot to the Assignor, the District's administrative charge of \$0.75 per acre-foot, and the Board's surcharge of \$0.70 per acre-foot. The remaining \$2.05 per acre-foot shall be held by the district for the primary purpose of offsetting costs associated with ESA and Federal claims and for the general improvements of the water district, specifically: streamgaging, automation and hydrologic investigations in Water District 1.
- C. In the event of a private or special purpose lease of water for use above Milner, the price for the rental of water may be negotiated above the price set forth in subsection A.

22. RENTAL POOL RESOLUTION

WHEREAS, it has been determined that during drought years the operation of the Rental Pool is unable to recognize any of the priorities or normal processes established in the Rental Procedures, and;

WHEREAS, the drought years of the past two decades have demonstrated a need to change the way the Rental Pool operates, to provide a higher level of predictability and dependability, and;



WHEREAS, the Committee of Nine and the Rental Pool Committee have been exploring a new process for making water available through the rental pool that would provide more certainty in the Rental Pool processes while protecting the water supplies for all space holders, and;

WHEREAS, there may be significant benefits to water users in 2003 if the Rental Pool can be modified to provide for more certainty through changes in the current procedures, pricing and supply mechanisms, and;

WHEREAS, the framework for the modified Rental Pool processes and pricing have already been developed.

NOW, THEREFORE, BE IT RESOLVED by the water users and storage space holders of Water District 1 that the Committee of Nine, and the Rental Pool Committee be charged with the assignment of pursuing the implementation of a Rental Pool that makes water available through the Rental Pool while protecting the availability of supplemental storage supplies.

BE IT FURTHER RESOLVED that the Committee of Nine be encouraged to proceed with this assignment with the goal of having a Rental Pool in place for the 2003 season that will provide a predictable and dependable storage Rental Process for Water District 1.

23. INTERIM BUDGET

WHEREAS, Water District 1 changed its fiscal year to begin November 1 and end October 31 of each year, and

WHEREAS, the annual meeting of Water District 1 at which the annual budget is adopted is the first Tuesday in March, leaving the water district to operate for four months without a budget;

NOW, THEREFORE, BE IT RESOLVED by Water District 1 meeting in regular annual session, that the Committee of Nine be authorized to adopt a continuing budget for the district to operate under between November and the annual meeting.

BE IT FURTHER RESOLVED that the continuing budget approved by the Committee of Nine shall reasonably represent the budget resolution the Committee of Nine will propose to the water users at the next annual meeting.

24. WATER DISTRICT 1 POLICY POSITION

WHEREAS, there are currently many issues that potentially can change water distribution patterns and water supplies in Idaho, and

WHEREAS, water users are now being asked to fund experts and attorneys in preparation for negotiations and/or litigation, and

WHEREAS, the water users of Water District 1 and their representatives, the Committee of Nine, wish to have a clear representation of the position of Snake River irrigators, and establish the following as the guiding principles in any and all negotiations and litigation:

1. Administration of water rights that have been or will be adjudicated in the SRBA must recognize traditional distribution and water management.
2. The zero minimum flow at Milner, as established in the state water plan be recognized as the state's position, and that there can be no call for deliveries below Milner by downstream interests.
3. Releases past Milner must be consistent with state law and limited to annual arrangements approved by the Committee of Nine and IWRB.
4. Any changes in upstream water rights that would allow water to be transferred below Milner will be vigorously opposed by Snake River water users and the Committee of Nine.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District 1, that the Committee of Nine is authorized to allocate sufficient funds to protect and defend these principles in negotiations with the federal government and Indian tribes and in challenging and defending claims in the Snake River Basin Adjudication or other necessary litigation.

## 25. ADMINISTRATION

WHEREAS, Idaho is a priority doctrine state where historically water has been developed and used in the various areas of the state, and

WHEREAS, the state has established administrative units in the form of water districts to distribute available water supplies, and

WHEREAS, water within these administrative units has been distributed without respect to rights that might have been established by downstream users, and

WHEREAS, upstream water users have not challenged or objected to the development of downstream water rights under the representation that their rights would not be subject to calls by water rights that exist outside of the state established administrative boundaries.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District 1 meeting in regular annual session this fourth day of March, 2003, that the Committee of Nine be authorized to expend the resources necessary to establish in the SRBA that past

administration represents a vital element of a water right and must be preserved in the adjudication of rights in the SRBA.

26. SNAKE RIVER BASIN ADJUDICATION

WHEREAS, the U.S. Supreme Court has held that the United States is not required to pay filing fees in the Snake River Basin Adjudication (SRBA), and

WHEREAS, the water users of Water District 1 have been required to pay substantial filing fees in the SRBA, and

WHEREAS, the United States has filed claims in the SRBA for substantial and exorbitant amounts of water in the lower Snake River which threaten the continued viability of irrigated agriculture in Water District 1 and the rest of the state, and

WHEREAS, the water users of Water District 1 have devoted substantial time and money to negotiate and defend against the SRBA claims filed by the United States, and

WHEREAS, defending against the claims filed by the United States in the SRBA and other McCarran Amendment adjudications has come at great cost to western water users.

NOW, THEREFORE, BE IT RESOLVED by the water users of Water District 1, meeting in regular annual session this fourth day of March, 2003, that the members of the Idaho Congressional Delegation are encouraged to pursue the enactment of federal legislation requiring the United States to pay its fair share of filing fees in the SRBA.

AND BE IT FURTHER RESOLVED that the members of the Idaho Congressional Delegation are also encouraged to seek Congressional oversight into the United States' activities and spending in the SRBA and other McCarran Amendment adjudications.

BE IT FURTHER RESOLVED that copies of this resolution be sent to the members of the Idaho Congressional Delegation, Governor Dirk Kempthorne, the Idaho State Attorney General, the Idaho Water Resources Department, and the Idaho Water Resource Board.

27. ENDANGERED SPECIES – SALMON

BE IT RESOLVED, that the water users of Water District No. 1 oppose any plan to use natural flow or stored water from the upper Snake River basin for drawdown or flow augmentation in the lower Snake and Columbia Rivers which use is contrary to the laws of the state of Idaho or is in breach of any contract between spaceholders and the U.S. Bureau of Reclamation or is an abrogation of any such contract.

BE IT FURTHER RESOLVED that any such water acquired for salmon recovery purposes be obtained only on a willing buyer/seller or willing lessor/lessee basis with a clear preference for the rental process over permanent acquisition.

BE IT FURTHER RESOLVED, that the water users of Water District No. 1 oppose designating flow augmentation for salmon migration as a beneficial use in Idaho.

28. WHEREAS, the Federal Endangered Species Act is clearly designed to support maintaining endangered or threatened species through artificial propagation; and

WHEREAS, special interest groups use the Act to obstruct beneficial water resource projects; and

WHEREAS, the appropriate federal agencies do not adequately or appropriately administer the Act; and

WHEREAS, recovery plans for threatened and endangered species is a federal obligation but can be delegated to or developed in cooperation with states.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District No. 1 support revision and amendment of the Endangered Species Act of 1973 to:

1. Require simultaneous recovery plans with listing decisions;
2. Require that the agency specify only reasonable and prudent alternatives contained in approved recovery plans if alternatives are needed to avoid jeopardy;
3. Require the agency to include economic considerations as well as scientific data in a determination of the value of listing a species for either threatened or endangered status.
4. Provide that cooperative agreements between federal, state and local agencies, and water supply entities shall be deemed a substitute for listing for habitat conservation or recovery plans;
5. Preclude the Secretary of Interior from designating by regulation waters to which the United States exercises sovereignty as critical habitat that would impact non-federal waters or entities;
6. No provision or program of the Endangered Species Act shall be construed or applied to authorize a taking or deprivation of any state created interest in water or water right.

29. CLEAN WATER ACT

WHEREAS, the United States Congress is presently considering reauthorization of the Clean Water Act; and

WHEREAS, such reauthorization may significantly impact the water users in Water District No. 1

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 urge Congress and the administration to incorporate the following principals in any activities regarding the Clean Water Act:

1. That neither the Corps of Engineers nor EPA nor any other federal agency or officer shall utilize any provision or program under the Clean Water Act to allocate or reallocate water quantity under water rights acquired pursuant to state law as part of any program that seeks to require specified levels of assimilative capacity, dilution water or instream flows.
2. No provision or program of the Clean Water Act shall be construed or applied to authorize a taking of any interest in water created pursuant to state law.
3. That section 404 protections and controls not be expanded.
4. The Corps should adopt simplified procedures for issuing general and nationwide permits and for transferring 404 permit authority to states. Certain categories of water such as headwaters, isolated waters, and certain intrastate waters should be excluded from permit requirements.
5. The Corps or EPA may not prohibit or in any way restrict or condition water diversions, depletions, or the consumptive use of water or water rights, which are authorized or decreed under state law.
6. Section 404 and wetland jurisdiction should be limited so that it does not apply to water surfaces and water related vegetation areas created artificially incidental to irrigation, hydropower and water supply projects. Any new rules or regulations or amendment of existing rules or regulations that are promulgated by EPA or the Corps regarding their authority over "waters of the United States," should expressly acknowledge the term "navigable" as directed by the United States Supreme Court in *Solid Waste Agency of Northern Cook County v. Corp.*
6. Reasonable best management practices should be incorporated in the law as the programs to be pursued for non-point sources.
7. Maintain the provisions of the Clean Water Act that exempt irrigation delivery or conveyance systems and return flows from point source regulation. Existing non-point sources shall remain as non-point sources under any program adopted under the Clean Water Act. Entities owning such irrigation delivery or conveyance facilities shall be permitted to control or regulate the quality of such return flows and to develop cooperative programs with water users.

8. That any proposed total maximum daily loads regulation should be subject to public review and comment as provided for by state law before implementation.

30. SNAKE RIVER RECHARGE

WHEREAS, water levels in the Eastern Snake Plain Aquifer, as well as surface water flows, have decreased over the past several years; and

WHEREAS, these decreased water levels may be improved by artificial recharge at various locations on the Snake River Plain as determined by the Eastern Snake Plain Aquifer model and recharge study.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 support continued efforts to identify and implement the most effective aquifer recharge sites and projects, including those, which would replenish surface and spring flows.

31. UNITED STATES BUREAU OF RECLAMATION – LEGAL OBLIGATIONS

WHEREAS, the United States Bureau of Reclamation (USBR) has entered into numerous contracts with irrigation districts, canal companies, water delivery entities, and other water users in Water District No. 1 to store and deliver water for irrigation; and

WHEREAS, the USBR is legally obligated to follow the terms and conditions of these contracts; and

WHEREAS, concerns have been raised over USBR's winter operations at Palisades Reservoir and the effect of those operations on the fishery of the South Fork of the Snake River; and

WHEREAS, USBR has previously identified and addressed these concerns for winter operations and continues to be mindful of the fishery resource of the South Fork of the Snake River when operating Palisades Reservoir.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 support the various contracts between irrigation entities and USBR and urges USBR to continue to adhere to these contracts when operating the reservoirs, including Palisades Reservoir.

32. USBR OPERATION & MAINTENANCE ACTIVITIES

WHEREAS, the United States Bureau of Reclamation operates and maintains important water supply and hydropower facilities throughout Water District No. 1; and

WHEREAS, such facilities are aging and in need of major maintenance or restoration activities and, in some cases, the high costs of completing these maintenance projects are compounded by governmental, environmental, or endangered species requirements; and

WHEREAS, the U. S. Bureau of Reclamation plans, budgets, manages, allocates and passes the costs of project O & M and extraordinary maintenance or restoration activities on to their water user customers without significant involvement from the project beneficiaries.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 urge the Bureau of Reclamation to:

1. Work with their contractors in formulating O&M budgets and planning for extraordinary maintenance or restoration activities on applicable facilities well in advance of actual expenditures;
2. Account for and explain to their contractors, on a quarterly basis, actual O&M costs incurred for each applicable facility, including budget comparisons and other detailed cost accounting analysis as requested by the contractors;
3. Work with their contractors on planning, budgeting, bidding, and managing extraordinary maintenance and renovation activities on applicable facilities in order to contain costs and maximize benefits;
4. If requested by their contractors, allow the costs of extraordinary maintenance and renovation activities to be repaid by project beneficiaries over a 5- to 10-year timeframe under existing or future legislation; and
5. Work with Congress and the Administration to obtain alternative funding sources to assist their contractors in covering the added costs or complying with environmental or species protection laws in maintaining and restoring Bureau of Reclamation facilities in the West.

### 33. FLOW AUGMENTATION STUDY

WHEREAS, the National Marine Fisheries Service (NMFS) continues to struggle with alternatives that will best recover Idaho's endangered anadromous fish; and

WHEREAS, augmentation water from Idaho has been the preferred solution of NMFS since 1992 and up to 427,000 acre feet of Idaho water has been supplied annually by willing lessors through Idaho water banks pursuant to Idaho Code § 42-1763A and § 42-1763B; and

WHEREAS, the smolt to adult ratios (SARs) continue to indicate levels below those necessary for recovery of the species, in spite of flow augmentation with 427,000 acre

feet of Upper Snake water and more than one (1) million acre feet from Dworshak Reservoir; and

WHEREAS, the Northwest Power Planning Council is considering amendments to its 1994 Fish and Wildlife Program, including the removal of the provision which proposes acquisition of an additional one (1) million acre-feet of water from the Upper Snake River Basin for flow augmentation; and

WHEREAS, the United States Bureau of Reclamation (USBR) has completed a study of the economic impacts of the acquisition of an additional one (1) million acre-feet from the Upper Snake Basin for augmentation; and

WHEREAS, several environmental groups have unsuccessfully filed various actions in federal court, seeking to require that USBR and NMFS acquire additional water from the Upper Snake; and

WHEREAS, serious questions exist regarding USBR's ability to deliver an additional one (1) million acre feet; and

WHEREAS, the acquisition of additional water would be contrary to existing state and federal law and policy;

WHEREAS, the Northwest Power Planning Council, as the result of solicitation of comments on its proposed amendments to the mainstem portion of its Fish and Wildlife Program, has received an update and clarification dated February 10, 2003 from the Independent Scientific Advisory Board, which comments include the following:

- A. That the relationship between river flows and salmon production has been reviewed before by the ISAB but many questions remain;
- B. That the whole issue of flow and fish survival requires re-evaluation;
- C. That management alternatives for improving survival of migrating juvenile anadromous fish include many dimensions beyond the current procedures for flow augmentation;
- D. That acceptance of a 'water budget,' referred to as 'flow augmentation' does not in any way restore original natural flow and the benefit to salmon of these incremental adjustments has not been well quantified;
- E. That the prevailing rationale for flow augmentation is inadequate, and it is neither complete nor comprehensive; and
- F. That the prevailing flow-augmentation paradigm, which asserts that in-river smolt survival will be proportionately enhanced by any amount of added water, is no longer supportable.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District 1 oppose any efforts by legal action or otherwise to increase flows from the upper Snake River in Idaho for flow augmentation above 427,000 acre-feet, urge that the United States Bureau



of Reclamation and the National Marine Fisheries Service reject any proposals to lease or otherwise acquire any additional water for flows from the Upper Snake River Basin, and that the water users of Water District 1 support the amendment to the Northwest Power Planning Council's Fish and Wildlife Program which eliminates any recommendation to acquire an additional one (1) million acre-feet of water from the Upper Snake River Basin for flow augmentation or any other purpose.

BE IT FURTHER RESOLVED, the water users of Water District 1 support an amendment to the Northwest Power Planning Council's Fish and Wildlife Program to eliminate the recommendation to acquire an additional one (1) million acre-feet of water from the Upper Snake River Basin.

34. HYDROELECTRIC PROJECT RELICENSING (Hells Canyon Complex and other facilities)

WHEREAS, the Idaho Power Company and other utilities that supply electricity to water users in Water District No. 1 are currently in the process of relicensing various hydroelectric projects, including the Hells Canyon Complex; and

WHEREAS, water users in Water District No. 1 rely upon a firm supply of power from the Idaho Power Company and other utilities; and

WHEREAS, the Hells Canyon Complex supplies over 75% of the hydroelectric power generated by the Idaho Power Company;

NOW, THEREFORE, BE IT RESOLVED that the water users in Water District No. 1 are opposed to the study or implementation of the possible introduction of salmon and steelhead species above the Hells Canyon Complex of hydroelectric dams; and

BE IT FURTHER RESOLVED that the water users of Water District No. 1 urge FERC, the State of Idaho and the Idaho Power Company to oppose introduction of the species above the Hells Canyon Complex, or any study of dam removal at Hells Canyon or other locations within the State of Idaho.

35. HYDROELECTRIC ENERGY ISSUES

WHEREAS, the recent energy crisis in California caused the Secretary of Energy to declare an emergency and order 75 entities to sell electricity to the California Independent System Operator (ISO) that was available in excess of electricity needed by each entity to render service to their firm customers; and

WHEREAS, two of the entities identified by the Secretary, Idaho Power Company and PacifiCorp, supply electricity to water users in Water District No. 1; and

WHEREAS, due to a projected dry year in 2001, and the many interests associated with reservoirs in Idaho apart from generating hydroelectricity, including water users in Water

District No. 1, the Idaho Public Utilities Commission, by Order No. 28605 in Case No. GNR-E-00-1, ordered Idaho Power and PacifiCorp not to draft additional water from reservoirs or through hydroelectric facilities to generate excess energy to serve non-system needs; and

WHEREAS, the water users of Water District No. 1 are dependent upon such reservoirs filling to meet storage water rights as well as providing a reliable source of electricity from such utilities as Idaho Power, PacifiCorp, and the USBR.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 oppose any future efforts to have reservoirs drafted to generate excess electricity to serve non-system needs.

36. LEGISLATIVE COMMITTEES

WHEREAS, the water users in Water District No. 1 are dependent upon numerous storage and surface water rights, as well as a reliable source of electricity; and

WHEREAS, natural resource and electric utility industry issues, particularly the effort to negotiate a settlement of the Nez Perce tribal claims in the Snake River Basin Adjudication, as well as the expiration and potential renewal of legislation authorizing the use of 427,000 acre feet of Idaho water for salmon recovery and evolving water rights issues connected to electric utility restructuring are of the utmost importance to water users in Water District No. 1; and

WHEREAS, the Idaho Legislature has passed resolutions appointing committees to study issues regarding natural resources and the electric utility industry in the state.

NOW, THEREFORE, BE IT RESOLVED that the water users of Water District No. 1 support the efforts of the legislative committees and recognize that the Committee of Nine may advise these committees as needed to ensure that the interest of water users in Water District No. 1 are protected.

37. SNAKE RIVER AQUIFER STUDIES

WHEREAS, reduced water flows from surface springs indicate a decline in the trust and non-trust water aquifers of the Snake Plain; and

WHEREAS, protection of prior water rights in the administration of Idaho's surface and ground water requires more information on the ground water supplies than is currently available; and

WHEREAS, such comprehensive studies are in the interest of all of water users within Water District 1,

WHEREAS, a committee is currently undertaking a review of the existing ESPA model and a continued legislative appropriation is required for said effort.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District 1 support statewide conjunctive management of tributary ground and surface waters.

BE IT FURTHER RESOLVED, that the water users of Water District 1 support continued appropriations by the Idaho State Legislature for completion of the Department's on going model studies.

BE IT FURTHER RESOLVED, that the water users of Water District 1 urge the Idaho Department of Water Resources to use the model and all other best available science to appropriately manage surface water and ground water in accordance with the priority doctrine as well as develop the appropriate rules to implement such management without delay.

38. NMFS' ESA LISTING POLICY

WHEREAS, the National Marine Fisheries Service (NMFS) has certain duties with respect to endangered and threatened anadromous fish in Idaho; and

WHEREAS, NMFS' listing policies for anadromous fish have been inconsistent with respect to consideration of hatchery reared fish; and

WHEREAS, a recent ruling in the United States District Court for the District of Oregon (*Alsea Valley Alliance v. NMFS*) determined that the listing of Oregon coastal coho salmon was illegal; and

WHEREAS, this court decision necessarily implicates the listing policy that was used to list certain anadromous fish in Idaho; and

WHEREAS, NMFS has begun a public rulemaking process, including public hearings, to determine what ESA listing standards should be applied to salmon and steelhead populations that include fish reared in hatcheries.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District 1 urge NMFS to complete a comprehensive review of its ESA listing policy for anadromous fish in the Pacific Northwest that is consistent with the ESA and includes petitions to delist certain stocks of fish where appropriate.

39. EPA POLICY ON AQUATIC HERBICIDES

WHEREAS, many irrigation districts, canal companies, and water delivery entities in Idaho apply aquatic herbicides to their systems to insure safe and efficient delivery of water; and

WHEREAS, many governmental entities and private companies apply insecticides, herbicides, and pesticides to protect public health and prevent the spread of pests, insects, and diseases, including recent documented cases of the West Nile virus; and

WHEREAS, application of these various insecticides, herbicides, and pesticides is vital to crop health and farming operations in the State of Idaho; and

WHEREAS, application of these herbicides is regulated by the Environmental Protection Agency (EPA) and the Federal Insecticide, Fungicide, Rodenticide and Algacide Act (FIFRA); and

WHEREAS, a recent decision in the Ninth Circuit Court of Appeals (*Headwaters v. Talent*) determined that the application of aquatic herbicides into canal systems constitutes a discharge of a pollutant from a point source which requires an NPDES permit under the Clean Water Act; and

WHEREAS, EPA issued guidance to its Regional Administrators in March 2002 clarifying that application of aquatic herbicides consistent with the FIFRA label to ensure the passage of irrigation return flow is a nonpoint source activity not subject to NPDES permit requirements under the CWA; and

WHEREAS, another recent decision in the Ninth Circuit Court of Appeals (*League of Wilderness Defenders v. Forsgren*) determined that application of aerial pesticides onto national forests constitutes a discharge of a pollutant from a point source which requires an NPDES permit under the Clean Water Act; and

WHEREAS, Idaho's Senate delegation recently urged the United States Department of Justice to seek further review and reversal of the Court's decision in *League of Wilderness Defenders v. Forsgren*; and

WHEREAS, the Second Circuit Court of Appeals recently remanded a district court decision (*Altman v. Town of Amherst*) and urged EPA to articulate a clear interpretation of existing law regarding whether properly used pesticides released into or over waters of the United States requires an NPDES permit.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District 1 support EPA's interpretative statement and regional guidance clarifying that application of aquatic herbicides consistent with the FIFRA label to ensure the passage of irrigation return flow is a nonpoint source activity not subject to NPDES permit requirements under the CWA;

BE IT FURTHER RESOLVED, that the water users of Water District 1 support the adoption of similar guidance with respect to aerial spraying of pesticides, herbicides, and insecticides, particularly those used in conjunction with and that are necessary for efficient farm operations;

BE IT FURTHER RESOLVED, that the water users of Water District 1 also urge the

United States Department of Justice to seek further review and reversal of the Ninth Circuit's decision in *League of Wilderness Defenders v. Forsgren*.

RESOLUTION NO. 40  
KLAMATH BASIN - BIOLOGICAL OPINIONS AND ACTION

WHEREAS, farmers in the Klamath Basin irrigate approximately 232,000 acres with water stored in Upper Klamath Lake and in Lake Ewauna and Tulelake; and

WHEREAS, in May 2002, the National Marine Fisheries Service (NMFS) and the United States Fish & Wildlife Service (USFWS) issued biological opinions concluding that the proposed 10-year Operation Plan for Upper Klamath Lake, Link River Dam, Tulelake and the related irrigation delivery facilities jeopardized the continued existence of the southern Oregon/Northern California coho salmon, the Lost River sucker fish, and the shortnose sucker fish; and

WHEREAS, these opinions make the same conclusions as the biological opinions issued in April 2001; and

WHEREAS, in direct response to these biological opinions, the Bureau of Reclamation issued a revised 2001 Operation Plan where farmers in the Klamath Basin received no irrigation water from Upper Klamath Lake, the Klamath River, Lake Ewauna, Tulelake and the related irrigation facilities in 2001; and

WHEREAS, Klamath Basin farmers were prevented from exercising state acquired water rights and were forced to leave thousands of acres idle in 2001; and

WHEREAS, the Bureau of Reclamation has recently indicated that the scientific basis for the jeopardy decisions in the 2002 biological opinions is in question; and

WHEREAS, the Bureau of Reclamation has indicated that NMFS and USFWS have ignored the results of an interim report of the National Academy of Science's National Research Council finding that presumed biological benefits of higher lake and river levels demanded in the 2001 biological opinions were unproven.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District 1 are opposed to any future actions taken by the Department of Interior that are similar to the strategies employed in the Klamath Basin in 2001 and that do not recognize and adhere to state water law;

BE IT FURTHER RESOLVED, that the water users of Water District 1 are opposed to any biological opinions issued for Bureau of Reclamation operations in the Klamath Basin that do not employ the best available science.

RESOLUTION NO. 41  
**CRITICAL HABITAT DESIGNATIONS**

WHEREAS, the National Marine Fisheries Service (NMFS) designated critical habitat for threatened Snake River fall chinook and spring/summer chinook and endangered Snake River sockeye salmon in Idaho in 1993 and these designations remain in place today; and

WHEREAS, these critical habitat designations cover broad areas unoccupied by the listed salmonids; and

WHEREAS, critical habitat designations for several other salmonid species in the Columbia River Basin were recently repealed pursuant to a consent decree entered into by NMFS in *National Association of Home Builders v. Evans*; and

WHEREAS, NMFS has indicated it intends to review the critical habitat designations for threatened Snake River fall chinook and spring/summer chinook and endangered Snake River sockeye salmon to determine if these designations warrant revision; and

WHEREAS, the United States Fish & Wildlife Service (USFWS) recently proposed designating critical habitat for the Klamath River and Columbia River Distinct Population Segments of threatened bull trout, including a number of streams, rivers, lakes, and reservoirs in Idaho; and

WHEREAS, critical habitat designations have the potential for profound and devastating economic impacts upon various industries in Idaho; and

WHEREAS, NMFS and FWS must adequately consider the economic impacts of its critical habitat designations pursuant to the Endangered Species Act (ESA), including those areas that are not occupied by listed species; and

WHEREAS, NMFS and FWS may exclude any area from critical habitat if the benefits of the exclusion outweigh the benefits of inclusion where such exclusion would not result in extinction of the species.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District 1 oppose any critical habitat designations for listed salmonids by NMFS and FWS that are contrary to the purposes of the ESA and that do not adequately consider the economic impacts of such designations on the local economies of the State of Idaho.

BE IT FURTHER RESOLVED, that the water users of Water District 1 oppose any critical habitat designations for listed salmonids by NMFS and FWS that do not adequately consider the economic impacts of such designations on the economies of entities that hold contracts to stored water in Bureau of Reclamation projects.

RESOLUTION NO. 42  
BLACKFOOT RIVER WILD & SCENIC RIVER DESIGNATION

WHEREAS, the United States Bureau of Land Management (BLM) recently completed a Final Resource Assessment, including a Wild and Scenic River Eligibility Study and Tentative Classification for a 44 mile long segment of the Blackfoot River beginning at Government Dam and ending below where Wolverine Creek empties into the Blackfoot River; and

WHEREAS, the BLM assigned one 5.6 mile segment a tentative classification of "scenic" under the definition provided in the Wild and Scenic Rivers Act (Act); and

WHEREAS, the Blackfoot River has historically been used and is currently used for irrigation and stockwater; and

WHEREAS, a "scenic" classification of this 5.6 mile segment of the Blackfoot River would result in steps being taken by the BLM to protect the included portions of the river, including the potential designation of minimum instream flows and limitation of diversions for irrigation; and

WHEREAS, such protective measures could have a negative impact on continued and future use of the Blackfoot River by Idaho residents and irrigators.

NOW, THEREFORE, BE IT RESOLVED, that the water users of Water District 1 encourage the BLM to remove the tentative "scenic" designation for the 5.6 mile segment of the Blackfoot River.

BE IT FURTHER RESOLVED, that the water users of Water District 1 encourage members of Idaho's Congressional delegation to oppose any designation of the Blackfoot River under the Wild and Scenic Rivers Act.